

1 Mr. Schonman and then testify that Mr. Shook talked to
2 Mr. Schonman. I mean, this is what the station was doing, and
3 this is what Mr. Tate was doing for Mr. Bramlett. He wasn't
4 circulating information concerning openings on his own, and
5 Mr. Bramlett knows that. Now if you want to show in cross-
6 examining Mr. Bramlett that he did not do that, so be it. But
7 I think the facts that are set forth in here, you are just,
8 you are taking sentences, and we could go on all night here.
9 What he also says is that as a result we got A, B and C. He
10 had those people who Mr. Tate brought into the station. You
11 can't pull sentences out of context or we will be here all
12 night.

13 JUDGE STEINBERG: Well, I am going to overrule the
14 objection, and you can cross-examine as to how Mr. Bramlett
15 knew this. And just while we are here, in DBI Exhibit No. 7,
16 which hasn't been identified yet, but that is the statement of
17 Mr. Tate, Mr. Tate Sr. Mr. Tate says, "Mack" -- Mack Bramlett
18 -- "relied upon me in large part to find people for the job
19 openings at the station." So that seems to confirm what
20 Mr. Bramlett is saying. I think this is more areas for cross-
21 examination than it is for objection, so that objection is
22 overruled.

23 MR. SCHONMAN: Thank you, Your Honor. The next
24 objection is in paragraph 9, six lines down, towards the end
25 of that line, the phrase "and a more desirable place to work."

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 I would move to strike that as conclusory, and also
2 irrelevant, really.

3 JUDGE STEINBERG: Why don't you just ask him about it?
4 What leads him to believe that it became a more desirable
5 place to work? And what in the world does that have to do
6 with representations that you made to the Commission? I can
7 see both points of view here, and I would rather just leave it
8 in and ask him about it if it is that much of a concern.

9 [REDACTED]

1 "Heck, no. I never tried it. I never thought to try it
2 because I knew they wouldn't to." That sheds a different
3 light on it, depending on what answer you get.

4 MR. SCHONMAN: We will do that in light of your ruling,
5 Your Honor. The Bureau's next objection is in paragraph 10,
6 the first full sentence. And we would object on grounds of
7 relevance.

8 JUDGE STEINBERG: I will overrule again. It is just, I
9 view as just plain background.

10 MR. SCHONMAN: Paragraph 12, the Bureau would object to
11 in its entirety because it is outside of the license renewal
12 term, which is the subject of this hearing.

13 JUDGE STEINBERG: Okay. Mr. Schattenfield? That would
14 also hook in with Exhibit 5, wouldn't it?

15 MR. SCHATTENFIELD: Yes.

16 MR. SCHONMAN: Yes, it would.

17 MR. SCHATTENFIELD: Yes.

18 JUDGE STEINBERG: Okay.

19 MR. SCHATTENFIELD: I think it important -- one, and
20 overriding -- that the station has got a scofflaw as soon as
21 they focused in on the situation. Whether they should have
22 known about it before or after, they did something about it.

23 And, secondly. I call your attention to the Bureau's argument.

1 | the last sentence in the paragraph there talks about what they
2 | are doing in the future and what they have to do. What is the
3 | purpose of putting that letter in? That was the purpose.

4 | Well, this is what they did.

5 | And at deposition, my colleagues over here asked
6 | Mr. Bramlett what he did upon receiving the letter. This is
7 | -- whether he did it as a result of the letter -- or he did it

1 correct me. I think it is more less conceded we didn't do --
2 Dixie says, "We didn't do what we should have done" throughout
3 this, throughout the renewal period, the period from what, '82
4 to whatever the period was, through '89?

5 MR. SCHATTENFIELD: Eighty-eight.

6 JUDGE STEINBERG: Eighty-eight? "We didn't do what we
7 were supposed to do. We didn't keep the records that we were
8 supposed to keep. We didn't contact the recruiting sources
9 that we were supposed to contact. But, on the other hand, we
10 didn't discriminate. We hired many minorities, and our
11 percentages were better than any other station in Decatur."
12 Again, if I am wrong, if I am incorrectly characterizing or
13 paraphrasing, forgive me. But one of the things that I would
14 think the Commission would be interested in is, okay, they had
15 not complied with the Commission's regulations. What have
16 they done, and when did they do it, to come into compliance
17 with the regulations? And this goes -- and the way I am
18 thinking, it goes in terms of what kind of a sanction to give
19 them for not complying with the Commission's rules. So,
20 therefore, I think, yes, it is outside the period that we are
21 considering, but I don't think you can look at just that. In
22 a case like this, I don't think you can look at that period in
23 isolation. I would want to know what they had done to come
24 into compliance with the Commission's rules, and I think the
25 Commission would want to know it.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 You can make the argument that they were pushed into it
2 by the petition to deny and by Mr. Van Horn's letter, or by
3 any other thing. And that might go to the weight that you
4 might give their efforts to comply. I don't look at this in
5 -- I know that it can analogized to improvements in
6 programming when the spotlight is one for comparative rule
7 purposes, but we don't have that here. We don't have a
8 situation where there is another licensee that is challenging
9 on this basis where there is an upgrade.

10 As I said, I think this is a very important ruling, and
11 that is why I wanted my ruling and the reasons for the ruling
12 to be absolutely clear so that when you argue that I am wrong,
13 it is spelled out in the record what my rationale was.

14 MR. SCHONMAN: Your Honor, I want to make sure that I
15 do understand your ruling.

16 JUDGE STEINBERG: Okay.

17 MR. SCHONMAN: And if I understand it correctly, what
18 you are saying is that it is a question of the weight to be
19 given this information.

20 JUDGE STEINBERG: That is one of the questions.

21 MR. SCHONMAN: Rather than a relevancy question?

22 JUDGE STEINBERG: No, that's -- no, I think, if you
23 look at this, if you look at it strictly, because I looked at
24 this very recently. The text of the issue is: "To determine
25 the extent to which the licensee of stations WHOS-AM/WDRM-FM

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 complied," past tense, "with the affirmative action provisions
2 specified in the rules." That is Issue 2. Issue 3 is: "To
3 determine whether, in light of the evidence adduced, a grant
4 of the subject license renewal application to ensure the
5 public interest, convenience and necessity." There is also a
6 provision in the HDL for forfeiture, but the forfeiture is
7 tied to the misrepresentation and not to the EEO violations.
8 Am I right about that?

9 MR. SCHONMAN: Right.

10 MR. SCHATTENFIELD: I would have to look. I thought it
11 was both.

12 JUDGE STEINBERG: No, it was just -- it probably should
13 have been both because you have got rule violations, but
14 technically you are correct. It is not within the purview.
15 It is not past tense. It is not whether they are "complied
16 with." Dixie has practically conceded that they didn't comply
17 with the provisions of the rules for various and sundry
18 reasons. And I think it is important for the Commission to
19 know, when dealing -- obviously, they are going to be
20 sanctioned for this. Whether the sanction is a slap on the
21 wrist or there can't be a forfeiture or a short-term renewal
22 or reporting requirements, or whatever the parameters of the
23 options that I have before me, I think this is important from
24 that standpoint to know when they started complying.

25 And, you know, you can say, "Well, why did you do this?"

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 Why did you do Exhibit 5, create an EEO program? Why did you
2 formalize it?" And he could say, "Well, we got the petition
3 to deny, and we knew that we were in trouble if we didn't."
4 To me, it is relevant from that standpoint. It is a tough --
5 this one is a tough call because there are so many analogies
6 to the comparative rule situation with the upgrading of the
7 programming. But I think, again, I would rather err on the
8 side of considering something than not considering it.
9 Because if I consider it and I shouldn't have considered it,
10 then the reviewing body can always just throw that whole thing
11 out and say, "The Judge shouldn't have looked at that."

12 MR. SCHONMAN: Well, Your Honor, along those lines,
13 rather now than later, not only with respect to paragraph 12,
14 but also with respect to, you know, Dixie 5 --

15 JUDGE STEINBERG: Correct.

16 MR. SCHONMAN: -- which obviously I can say again when
17 we come to it, the concern we have is that consideration of

1 such connection.

2 JUDGE STEINBERG: Okay. Let me just clarify something
3 in my own mind. When you paraphrased or when you summarized
4 Rust, were you talking -- was Rust talking about numbers or,
5 in other words, was Rust saying, okay, during the renewal term
6 -- during the term? Is it the renewal term?

7 MR. SCHONMAN: Yes.

8 JUDGE STEINBERG: During the renewal term, the numbers
9 were way low, and then after the term they improved the
10 numbers? Or was it dealing with during the renewal term they
11 didn't keep the books that they should have kept, but after
12 the renewal term was over they started formalizing basically
13 the books and records that they kept? The way I see this, it
14 is not -- if the numbers that I have seen in the exhibits are
15 accurate, this is not a question of numbers. It is a question
16 of intent to deceive, lack of candor, misrepresentation. And
17 then the issue, too, is basically a bookkeeping issue. Did
18 they do what they should have done, when they should have done
19 it, and, no, they didn't. I see a distinction there.

20 I'll tell you what. I knew about the Rust case in
21 terms of I know that there is a case called Rust, and I sort
22 of know what it stood for generally. Let me leave the stuff
23 in. And if they argue in their proposed findings one way, you
24 can argue the other way, and there might be other precedents
25 that you didn't look into that I don't know. I didn't know

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 reason you are overruling that objection?

2 JUDGE STEINBERG: Oh, yes.

3 MR. SCHONMAN: The Bureau's next objection is on page 8
4 at the bottom, three lines up, near the tail end. The phrase,
5 "this wasn't me," and it continues to page 9, to the end of
6 that sentence.

7 JUDGE STEINBERG: Okay. The next sentence begins, "In
8 my personal life"?

9 MR. SCHONMAN: Yes. That sentence, "In my personal
10 life," we also object to that as well.

11 JUDGE STEINBERG: Beginning with --

12 MR. SCHONMAN: In other words, what the Bureau objects
13 to is, "This wasn't me as I have never discriminated against
14 anyone because of race or color or anything else. In my
15 personal life, I have always stood for equal treatment of all
16 races."

17 JUDGE STEINBERG: Mr. Schattenfield?

18 MR. SCHATTENFIELD: I think this is the heart of our
19 case, based on his view of himself, which the Bureau is free
20 to challenge. He proceeded for the next two or three years in
21 that state of mind to prove to the Commission and anybody else
22 that would listen that he did not discriminate, and he was
23 obsessed with that. Now whether he should have been or not,
24 or whether the Bureau can cut into that, they can try. But
25 this is telling how he reacted, and it is the predicate for

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 everything he did thereafter and is probably still doing,
2 although now he is more focused.;

3 JUDGE STEINBERG: I will overrule the objection. I
4 think, again, it is a part of his perception of himself.

5 MR. SCHONMAN: Your Honor, on paragraph 18 --

6 MR. SCHATTENFIELD: Which one? I'm sorry.

7 MR. SCHONMAN: Paragraph 18. The second line down in
8 paragraph 18 states, "I never have discriminated against
9 anyone, blacks included," and because. That phrase, for the
10 same reason, the Bureau would object.

11 JUDGE STEINBERG: Overruled.

12 MR. SCHONMAN: At the top of page 11 --

13 MR. SCHATTENFIELD: There is a typo that I would like
14 to --

15 JUDGE STEINBERG: Okay, let's -- we don't need that.
16 We will just deal with the objections.

17 MR. SCHONMAN: At the top of page 11, the phrase that
18 "DBI had discriminated against minorities." For the same
19 reason again, the Bureau objects to that phrase. And we would
20 also add that Mr. Bramlett is addressing the petition, and the
21 petition is already an exhibit.

22 MR. SCHATTENFIELD: This is his state of mind, Your
23 Honor.

24 JUDGE STEINBERG: I will overrule that in terms of, but
25 I think he can say what he thought the petition said.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 MR. SCHATTENFIELD: The petition did say it, and it
2 speaks for itself.

3 MR. SCHONMAN: Your Honor, on page 12, six lines from
4 the bottom, "If I had not been represented by counsel in this
5 matter, I would have reviewed the letter carefully myself and
6 provided the information requested." As it was, that
7 sentence, and then the first words in the next sentence, the
8 Bureau objects. It is essentially irrelevant and hypothetical
9 at best. What he would have done under other circumstances
10 doesn't matter.

11 JUDGE STEINBERG: Okay. Let Mr. Schattenfield find the
12 sentence.

13 MR. SCHATTENFIELD: Starting, "I felt comfortable"?

14 MR. SCHONMAN: "If I had not been represented."

15 MR. SCHATTENFIELD: Oh, okay. I got you. Thank you.

16 MR. SCHONMAN: I'm sorry. Did you hear my objection?

17 MR. SCHATTENFIELD: Yeah. After I found it, I heard
18 it. I heard it while I was looking. This again is a very
19 salient point in Mr. Bramlett's case. We cannot quarrel
20 with -- we cannot counter the fact that the Commission sent
21 letters to Mr. Bramlett containing certain specific questions.
22 Mr. Bramlett's point is, by the time he got those letters, his
23 attorney already had them, and they were discussing what the
24 answer would be and had pretty much formulated an approach.
25 His point is that if he hadn't had an attorney, he would have

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 | got the letters instead of discussing it with his attorneys
2 | and perhaps been more efficient in answering the questions
3 | instead of going down the line with his state of mind based on
4 | information he was developing with his attorney. And that is
5 | his point, and I think that again goes to the heart of what he
6 | did here. Because later on, as he said in here, and he said
7 | at his deposition, when he read the hearing designation order

1 MR. SCHATTENFIELD: Period? All of that out?

2 JUDGE STEINBERG: "As it was," comma, and all of that
3 is stricken.

4 MR. SCHONMAN: Thank you, Your Honor. Your Honor, I
5 stated off the record before we got started today that I had
6 to leave at approximately 3 o'clock. It is now 3 o'clock, and
7 so I am going to turn over the rest of the Bureau's business
8 to my colleague, Jim Shook.

9 JUDGE STEINBERG: Okay.

10 MR. SCHATTENFIELD: Thank you, Mr. Schonman.

11 MR. SHOOK: Your Honor, the Bureau's next objection
12 would be on page 13. It would be the very last sentence of
13 paragraph 22, which starts on the second line from the top,
14 beginning, "I later learned through on minority hires." Your
15 Honor, we have a competence objection there. Mr. Bramlett's
16 counsel will be capable of testifying whatever it was that
17 such person believed.

18 JUDGE STEINBERG: Okay. I have mixed emotions on this.

19 MR. SCHATTENFIELD: I didn't hear what you said on it.

20 JUDGE STEINBERG: Mr. Schattenfield, let me hear from
21 you first before I express my mixed emotions.

22 MR. SCHATTENFIELD: The heart again. There's two or
23 three principles to the heart of this case, and one of the
24 principles is that two people were talking to each other about
25 two different things. And what he is saying here is that he

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 did not learn until a later time that his counsel thought he
2 was providing certain information, whereas he was not pro-
3 viding that information. And that is -- the coalition of
4 those two mistaken beliefs resulted in what happened before
5 the Commission, and he is saying that. If he would have known
6 at the time that she didn't understand, this would not have
7 happened. He now knows that that is what happened, because
8 after he was designated for a hearing and he met with
9 Ms. Marshall, and that is -- I am not going outside the
10 record, Mr. Shook -- he learned what she was going after and
11 she learned what he was doing, or somewhere in there.

12 And I think that is important, because to draw the
13 difference between their two approaches is very important to
14 Dixie's case here. And Dixie is up for renewal of license,
15 and this is a very serious matter for them. You have got to
16 understand what happened.

17 JUDGE STEINBERG: Okay. My mixed emotions are -- and I
18 will express them on the record. I don't have any
19 hesitation -- that this statement is basically hearsay. He is
20 saying what counsel did or did not -- he is trying to say what
21 counsel did or did not realize, and counsel should be
22 testifying as to what they did or did not realize.

23 On the other hand, it does serve to explain certain
24 aspects of what was going on. And my inclination is to leave
25 it in, to overrule the objection, let you cross-examine on

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 that point if you want to. And then if you then think there
2 is no basis for him making that statement, or he may -- it
3 depends on when he learned too. If he learned yesterday that
4 counsel was going off on a different track, that is something
5 different than if he learned it in December or January, or
6 December '91 or January '92. So let me leave it in for now,
7 and then you can ask him about that, and then maybe we will
8 revisit the objection.

9 MR. SHOOK: Okay. The Bureau's next objection would be
10 the last sentence of paragraph 23, which appears in the middle
11 of page 14, "In view of the more than two years," etc.,
12 through the end of that sentence. The Bureau believes that
13 that is totally speculative.

14 JUDGE STEINBERG: Okay. You are on page 14?

15 MR. SHOOK: Yes, Your Honor.

16 JUDGE STEINBERG: And the sentence beginning, "In view
17 of the more than two years" through the end of that paragraph?

18 MR. SHOOK: Yes, Your Honor. I see it is one sentence.

19 JUDGE STEINBERG: Okay.

20 MR. SHOOK: And it is that sentence.

21 MR. SCHATTENFIELD: I don't think that is speculative,
22 Your Honor, at all. Are you saying that after two years he
23 could not have recalled with any degree of validity
24 recruitment information with regard to applicants two years
25 ago? That is not speculative. He is stating a fact.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 JUDGE STEINBERG: Okay. I will overrule the objection.

2 MR. SHOOK: Your Honor, the Bureau's next objection
3 appears on page 16, paragraph 28. The Bureau has no objection
4 to the first two sentences, but the Bureau objects to the rest
5 of the paragraph.

6 JUDGE STEINBERG: Okay. So we are starting with, "I
7 would never purport to tell anybody in the radio business"
8 through the end of the paragraph?

9 MR. SHOOK: Yes, Your Honor.

10 JUDGE STEINBERG: Mr. Schattenfield?

11 MR. SCHATTENFIELD: What he is saying is that he didn't
12 give Ms. Marshall the information that she used.

13 JUDGE STEINBERG: Okay. Well, let --

14 MR. SCHATTENFIELD: And the reason for it.

15 JUDGE STEINBERG: Okay. I think I will sustain the
16 objection. The information that you wanted, the paragraph
17 that it didn't come from Ms. Marshall, and that is in there.

18 MR. SCHATTENFIELD: Wait a minute.

19 JUDGE STEINBERG: I mean, the paragraph it did not come
20 from him. It came from Ms. Marshall. And that is in there.

21 MR. SCHATTENFIELD: It did not come from Ms. Marshall?
22 It did come from her.

23 JUDGE STEINBERG: No, it says, "I did not" --

24 MR. SCHATTENFIELD: It did not come from him.

25 JUDGE STEINBERG: Right. It didn't come from him, and

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 that is in there, and that is all that you really need.

2 MR. SCHATTENFIELD: Well, but more than that, on the
3 surface on it, he is explaining how --

4 JUDGE STEINBERG: He is saying on the surface of it, it
5 is ludicrous. Okay. And then we have Mr. Van Horn's
6 deposition where Mr. Shook basically asked him similar
7 questions in terms of turnover, mom-and-pop-type stations, and
8 his answer was basically, "It is a small station, a
9 family-owned station. Every time I pick up the phone and
10 Ms. Bramlett answers, I hear the kids in the background, and I
11 assume that they had a very stable employment situation."

12 MR. SCHATTENFIELD: That is Mr. Van Horn.

13 JUDGE STEINBERG: Yes, but what I am saying --

14 MR. SCHATTENFIELD: Mr. Bramlett is saying that he,
15 knowing the radio business, would never tell anyone that.

16 JUDGE STEINBERG: Well --

17 MR. SCHATTENFIELD: Mr. Van Horn is a lawyer, and Ms.
18 Marshall is a lawyer. And who knows whether they had ever
19 been in a radio station? I don't know.

20 JUDGE STEINBERG: Well, I think for your purposes it is
21 sufficient that -- you know, I think you have got in the
22 record what you want in the record; namely, this information
23 didn't come from Mr. Bramlett.

24 MR. SCHATTENFIELD: Well, what makes it, as
25 Mr. McCartin just points out to me and which we have been

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 living with, is nobody in any station would maintain that we
2 only had 20 hires over a seven-year period. Now that can be
3 the turnover that you are talking about Mr. Van Horn -- 12 of
4 whom were in the last year of the license term, 8 of whom were
5 after, and only 7 for the six preceding years, all of whom
6 were minorities.

7 You know, that is what he is saying is ludicrous. And
8 he is saying, "You, Ms. Marshall, and you, Mr. Van Horn, if
9 you would have looked at would have known." And I think
10 Mr. Van said he never focused on that. If he had, he would
11 have known that it was ludicrous. That is what he is saying,
12 and that is the nature of his discontent with various things
13 besides this case. That is what he is saying. Seven hires
14 over seven years, all of whom were minorities; twelve the next
15 year, all of whom were white. He is saying that nobody in his
16 right would believe that it was the total hires, and that is
17 one of his concerns here.

18 JUDGE STEINBERG: Let me leave it in then, and then let
19 Mr. Shook argue that Mr. Van Horn certainly believed that the
20 situation was the way -- I mean, see, that is the problem that
21 I have, is that Mr. Bramlett runs the station in Decatur, and
22 you are saying that nobody in the radio business would believe
23 this. Well, I don't know if he is an expert in the entire
24 radio business. I have --

25 MR. SCHATTENFIELD: I run radio stations, and I

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 wouldn't believe it. Now Mr. Van Horn and Ms. Marshall don't,
2 but --

3 JUDGE STEINBERG: I will leave it in there, and then
4 you can all argue about it in findings and replies. You know,
5 your argument is basically that anybody looking at the
6 statement was made, that had any kind of knowledge of radio,
7 knew that it couldn't be accurate.

8 MR. SCHATTENFIELD: That's right.

9 JUDGE STEINBERG: Okay. I may have a few questions on
10 him about this too, so I think it would serve my purposes to
11 leave it in also. Sorry, Mr. Shook.

12 MR. SHOOK: Your Honor, page 19.

13 MR. SCHATTENFIELD: When are we going to have a recess?

14 MR. SHOOK: Why don't we finish Exhibit 1?

15 MR. SCHATTENFIELD: Okay.

16 JUDGE STEINBERG: I was going to say, "Sometime today."

17 MR. SHOOK: Your Honor, recognizing your prior rulings,
18 we are making these objections for the record even though
19 we --

20 JUDGE STEINBERG: I may surprise you on one of them.
21 You never can tell.

22 MR. SHOOK: All right. Your Honor, one objection that
23 we have is to a sentence that appears about one, two, three,
24 four, five six, seven, beginning seven lines from the top, "I
25 admit I made a terrible mistake, the biggest mistake of my

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 career." Your Honor, that is the ultimate conclusion to be
2 decided here by you. We object to that sentence.

3 JUDGE STEINBERG: Well, wouldn't it be handy to have it
4 in there as an admission?

5 MR. SCHATTENFIELD: Strike it!

6 JUDGE STEINBERG: I think this describes his state of
7 mind.

8 MR. SCHATTENFIELD: Absolutely.

9 JUDGE STEINBERG: And including current state of mind.
10 And if you want to cross-examine him on that, you are
11 certainly free to.

12 MR. SHOOK: Your Honor, we also object to the last two
13 sentences of paragraph 32. We recognize that this essentially
14 has just been argued about in terms of the believability or
15 lack thereof of such assertions.

16 JUDGE STEINBERG: Well, why don't you just say it is
17 cumulative? I will overrule the objection.

18 MR. SCHATTENFIELD: I like what I see too. I like what
19 I see.

20 MR. SHOOK: Your Honor, our next objection is on page
21 30, in paragraph 48.

22 JUDGE STEINBERG: Wait a minute. Let me see if I have
23 any notes of stuff that I had questions about. Page 30?

24 MR. SHOOK: Yes, Your Honor.

25 JUDGE STEINBERG: Okay.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 MR. SHOOK: Paragraph 48, the second sentence in the
2 paragraph. We believe that is irrelevant.

3 MR. SCHATTENFIELD: I'm sorry. Paragraph 48, starting
4 where?

5 MR. SHOOK: The second sentence.

6 MR. SCHATTENFIELD: That sentence is irrelevant?

7 MR. SHOOK: Yes.

8 JUDGE STEINBERG: Mr. Schattenfield?

9 MR. SCHATTENFIELD: This is his mindset. Call it state
10 of mind, mindset, whatever you call it. Here is a man who
11 says to the Commission and to anybody who will listen, "I
12 would not lie to the Commission. I know that you do not lie
13 to the Commission. I would not lie to the Commission because
14 I don't lie, number one, and because I know how important it
15 is to tell the Commission the truth." That is what he is
16 saying. He is trying to make the Commission and the world
17 believe that what happened in those various filings were not a
18 lie in his mind; that given his mindset, this is what he was
19 trying to across. And he is saying to you that as a long-term
20 Commission licensee and as an engineer, he knows the
21 importance of not misstating facts to the Commission, and that
22 tells you the person that he is.

23 Now Mr. Shook might be able to cross-examine him and
24 show that that is not the type of person is, but I doubt it.
25 We are trying to present -- this case -- I know you are having

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 trouble up there, and I know that Mr. Shook is. This case is
2 about a human being who has certain mindsets and whose whole
3 life is wrapped up in this, and he wants to tell his story to
4 the Commission.

5 Before there can be a just decision in this case, the
6 Commission has to understand whom they are dealing with, and
7 this is what he is trying to show. "This is me," he is
8 saying.

9 JUDGE STEINBERG: Okay. I will overrule the objection.
10 Maybe you can find a couple of NALs.

11 MR. SCHATTENFIELD: Then I will withdraw my speech!

12 MR. SHOOK: All right. Your Honor, on page 31,
13 beginning --

14 JUDGE STEINBERG: I suspect I am going to agree with
15 these.

16 MR. SHOOK: Beginning four lines down, the sentence, "I
17 have always been responsive," to the end of that paragraph.
18 Your Honor, we don't have any programming issues here.
19 Whatever programming they may have, however wonderful it may
20 be, has absolutely nothing to do with the issues in this case.

21 JUDGE STEINBERG: Mr. Schattenfield?

22 MR. SCHATTENFIELD: I guess the reason that we put this
23 in and the reason that we wanted to tell this story is, this
24 case has two things that he wants to get across. As we said
25 in our motion for summary judgment, this man lives, dies,

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

1 breathes, eats his station, and he is proud of it. And he
2 would never, he says, do anything to jeopardize that station,
3 and then he tells you why what he does at the station, to show
4 you that this is my life, and I know it is and the Commission
5 does. And he wants the Commission to understand that, that is
6 my life, Mack Bramlett. Without it, he is nothing, and he is
7 trying to get that point across.

8 And the two points mesh where he says, "This is my
9 life. I know the importance, and I need it. I know the
10 importance of being truthful with the Commission. I would
11 never jeopardize my life by lying or filing something that I
12 thought was not correct with the Commission." And here he is
13 telling you what he has done at that station and why it is his
14 life. And I submit to you that for him to have a public
15 affairs program, that that is highly rated, is remarkable, and
16 he wants the world to know.

17 JUDGE STEINBERG: Okay. The objection will be
18 sustained. This is clearly not relevant to the inquiry here.

19 MR. SCHATTENFIELD: From where to where?

20 JUDGE STEINBERG: Page 31, fourth line from the top.

21 MR. SCHATTENFIELD: "I have always been responsive"?

22 JUDGE STEINBERG: Beginning with, "I have always been
23 responsive," through the end of that paragraph.

24 MR. SHOOK: Okay.

25 JUDGE STEINBERG: And paragraph 49, first sentence.

FREE STATE REPORTING, INC.

Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947